

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.9521 of 1995

Date of decision: 15.2.2016

Ex-Constable Kuldeep Singh

... Petitioner

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the petitioner.

Mr. Harkesh Manuja, Addl. A.G., Punjab.
For the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner was a Constable in the Punjab Police. He remained absent for 1 year, 8 months and 9 days without authorized leave. He set up a case that he was mentally depressed and had undergone treatment at the Christian Medical College, Ludhiana. He states that he submitted medical leave which was not duly considered by the Police Department and they treated him as willfully absent from duty. The disciplinary inquiry proved his willful absence from duty without permission. Dismissal from service followed. This is what has brought the petitioner to court assailing his dismissal order claiming reinstatement to service.

2. On notice, in the reply filed by the State it is admitted that a letter dated May 9, 1992 was received from the petitioner praying for grant of medical leave. It is explained that no action was taken on

application since the petitioner did not show up for his case of absence to be processed. The petitioner failed to produce any documentary proof supporting illness, as valid and genuine excuse which kept him away from work. What is attached with the writ petition is a certificate by the Acting Head of the Department of Psychiatry in the Christian Medical College, Ludhiana, advising him rest for a month on the ground that the petitioner was suffering from mentally depression. But no further details have been recorded in writing of the mental illness by the Medical Doctor as reasons sufficient. The medical certificate relied upon is not authenticated by the hospital authorities to be accepted as valid for purposes of explanation of absence from duty as a policeman in uniform. A condition of mental “depressiveness” does not appear to be one such ailment that a Constable would not be fit enough not to appear before his superior officer and explain to him his problem for the officer to evaluate his condition and act accordingly including sending him for a medical examination before the Civil Surgeon of the District.

3. The petitioner was issued charge-sheet for willful absence. An ex parte inquiry was held. He has approached this Court with a prayer that the dismissal order is bad in law as it violates the provisions of Rule 16.2, 16.24 and 16.31 of Punjab Police Rules, 1934 (for short 'the PPR'). The petitioner was enlisted as Constable in 1979 in the Police force and has served for about 13 years when the incident attributed to his absence occurred. Against the dismissal order, the petitioner carried an appeal to the Deputy Inspector General of Police, which failed on May 24, 1994. The revision petition before the Inspector General of Police,

Punjab was rejected on February 9, 1995 and the dismissal order was upheld.

4. The petitioner had notice of inquiry instituted against him, but he failed to appear to defend himself and prove sufficient cause of absence, and when he stayed away he cannot complain of the ex parte inquiry as one held behind his back. I fail to see how Rule 16.24 of the PPR has been violated in the case of the petitioner inasmuch as after issuing show cause notice due compliances of the procedural law were satisfied which were stultified by the act and conduct of the petitioner in avoiding the inquiry. In any case, the defence of mental illness justifying absence may be explainable for a short period of absence but not in the face of the long length of absence extending beyond one year and 8 months, and that too for Constable in the Punjab Police which is a disciplined force where absence without permission can be a threat to maintenance of law and order. Hence, his past service receded into the background and if it was not looked into it would not in the view of this court vitiate the dismissal order. The petitioner made no effort to contact his superiors during the relevant period and bring to their notice the reason for not reporting for duty except sending an application without following up the matter. Absence from duty by a policeman is to be viewed from altogether a different stand point than other employees who may not belong to a uniformed force.

5. I find no palpable error on the face of the record or in the reasoning adopted by Senior Superintendent of Police, Sangrur in imposing punishment of dismissal from service following ex parte

inquiry where the charge of willful and unauthorized absence was proven on evidence produced by the prosecution, the long absence being without sufficient cause. No ground to interfere is made out.

6. No merit. Dismissed.
7. Office to send a copy of this order to the petitioner.

(RAJIV NARAIN RAINA)
JUDGE

15.2.2016
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